

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:14-mc-00009-MR**

UNITED STATES OF AMERICA,)
)
 Petitioner,)
)
 vs.)
)
 JAMES E. MacALPINE,)
)
 Respondent.)
 _____)

ORDER

THIS MATTER is before the Court on the Respondent's Motion to Dismiss [Doc. 8]; the Respondent's Motion to Clarify [Doc. 9]; and the Government's Motion to Modify Show Cause Order [Doc. 11].

The Government initiated this proceeding on February 25, 2014 under the authority of I.R.C. § 7402(b) and 7604(a) of Title 26, U.S.C., to judicially enforce an Internal Revenue summons. On April 8, 2014, the Court entered an Order directing the Respondent to show cause within fourteen (14) days why he should not comply with and obey the aforementioned summons and each and every requirement thereof. [Doc. 7].

In response, the Respondent has filed a Motion to Dismiss, arguing that prior to the issuance of the Show Cause Order, he had never received any notice of the Government's Petition. [Doc. 8]. The Respondent further moves to clarify the Court's Show Cause Order. [Doc. 9]. The Government has responded to the Respondent's motions. [Docs. 12, 13]. Conceding the lack of notice prior to the entry of the Show Cause Order, the Government requests that the Court modify the Show Cause Order to allow the Respondent additional time to respond. [Doc. 11].

The Court first addresses Respondent's Motion to Dismiss. Contemporaneous with the filing of the Government's Response to the Motion to Dismiss, the Government has filed a certificate of service indicating that the Respondent was served with the Petition and relevant exhibits by mail on April 22, 2014. [Doc. 10]. The Government further seeks to modify the Show Cause Order to allow the Respondent additional time to respond. [Doc. 11]. For the reasons stated in the Government's motion, and for cause shown, the Court will modify its prior Order so as to allow the Respondent until **May 30, 2014** to respond to the Show Cause Order. In light of this extension, the Respondent's Motion to Dismiss [Doc. 8] is rendered moot and will therefore be denied.


As for Respondent's Motion to Clarify, this motion requests the Court to warn IRS agents and Department of Justice attorneys that they will be subject to punishment if they file false pleadings or declarations in this case. [Doc. 9]. Such a warning is unnecessary, however, as the penalties for any such false statements is provided by statute, regardless of whether a warning is issued by this Court. Accordingly, Respondent's Motion to Clarify will be denied.

IT IS, THEREFORE, ORDERED:

- (1) Respondent's Motion to Dismiss [Doc. 8] is **DENIED AS MOOT**;
- (2) Respondent's Motion to Clarify [Doc. 9] is **DENIED**; and
- (3) Petitioner's Motion to Modify Show Cause Order [Doc. 11] is **GRANTED**, and the Respondent's deadline for responding to the Show Cause Order is **EXTENDED** to **May 30, 2014**.

IT IS SO ORDERED.

Signed: May 8, 2014


Martin Reidinger
United States District Judge

